

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:24-cv-00807-D-RJ

H&A FARMS LLC

Plaintiff,

vs.

CARDINAL FOODS LLC, and CARDINAL  
FOODS (DE) LLC

Defendants.

**ORDER GRANTING UNOPPOSED  
MOTION TO SET ASIDE ENTRY OF  
DEFAULT**  
[Fed. R. Civ. P. 55(c)]

Defendants Cardinal Foods LLC and Cardinal Foods (DE) LLC move that the Court, pursuant to Federal Rule of Civil Procedure 55(c), set aside the Entry of Default entered against each of them in this action on November 8, 2024 [Dkt. 13], and that the Court accept their Answer, a copy of which was filed and served on October 23, 2024 [Dkt. 12], as timely served and filed.

In support of this motion, which Plaintiff's counsel has stated he does not oppose, Defendants demonstrated to the Court that good cause exists for setting aside this default for the following reasons:

1. The motion is before the Court in a timely fashion. The Defendants' first notice that Plaintiff was pursuing an entry of default against them was on October 18, 2024, when Defendants' attorney Bart Botta received an e-mail from Plaintiff's counsel containing a copy of the Request For Entry of Clerk's Default which had been filed earlier that day. Defendants' attorney Bart Botta immediately contacted Plaintiff's attorney and the two of them called the court to ask if the filing could be held until the following week to allow Defendants the opportunity to locate and retain

local North Carolina counsel and file their Answer. Defendants quickly retained local counsel, and filed their Answer with this Court, on October 23, 2024 [Dkt. 12], three (3) court days after they were made aware of Plaintiff's Request For Entry of Default.

2. Based on the phone call with the clerk, the parties were under the good faith impression that as long as Defendants' Answer was filed by October 25, 2024, the clerk would not proceed with entering default against either Defendant.

3. The Defendants claim to have meritorious defenses to the allegations of this lawsuit as set forth in the Answer and Affirmative Defenses filed with the Court on October 23, 2024. The Defendants have pled defenses in their Answer, and stand ready and able to defend this lawsuit on its merits.

4. Plaintiff will not be unduly prejudiced by setting aside the defaults and allowing this lawsuit to proceed on its merits, as doing so is consistent with the long-standing legal doctrine that cases should be decided on their merits, and that defaults are generally disfavored.

5. Denial of this Motion would potentially expose Defendants to substantial monetary exposure, despite the existence of meritorious defenses which Defendants wish to assert.

WHEREFORE, the Court hereby enters an Order:

1. Setting aside Clerk's Entry of Default entered against Defendant Cardinal Foods LLC on November 8, 2024;


2. Setting aside Clerk's Entry of Default entered against Defendant Cardinal Foods (DE) LLC on November 8, 2024; and

///

///

3. Accepting the Defendants' Answer that was filed on October 23, 2024 [Dkt. 12] as timely filed.

SO ORDERED. This the 2 day of December 2024.

  
\_\_\_\_\_  
JAMES C. DEVER III  
United States District Judge